

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 2**

**PARASYS, INC.**

**Employer**

**and**

**CASE NO: 2-RD-1589**

**JULIE ODLE**

**An Individual**

**UNITED FEDERATION OF SPECIAL  
POLICE AND OFFICERS, INC., LOCAL 639**

**Intervenor**

**and**

**FEDERAL CONTRACT GUARDS OF AMERICA**

**Intervenor**

**DECISION AND DIRECTION OF ELECTION**

Upon a petition<sup>1</sup> filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, the Board has delegated its authority in this proceeding to the Regional Director, Region 2.

Upon the entire record in this proceeding<sup>2</sup>, it is found that:

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<sup>1</sup> The Petition was amended at the hearing to reflect the proper name of the Employer.

1. The Hearing Officer's rulings are free from prejudicial error and hereby are affirmed.

2. The parties stipulated<sup>3</sup> and I find that Parasys, Inc. (the Employer), an Alabama corporation, is engaged in the business of providing uniform guard services to Federal sites nationwide, including locations in the New York Metropolitan area. Annually, in the course and conduct of its business operations, the Employer provides services valued in excess of \$50,000 directly to customers located outside the State of New York.

Accordingly, I find that the Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.

3. The parties stipulated that United Federation of Special Police and Security Officers, Local 639 (Intervenor United), is a labor organization within the meaning of Section 2(5) of the Act.

The parties also stipulated that Federal Contract Guards of America (Intervenor Federal), is a labor organization within the meaning of Section 2(5) of the Act.

Accordingly, based upon the stipulations of the parties, the record establishes and I find that Intervenor United and Intervener Federal are labor organizations within the meaning of Section 2(5) of the Act.

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<sup>2</sup> The parties waived their right to file briefs in this matter.

<sup>3</sup> While the Employer did not appear for the hearing, the Employer did execute the stipulation received into evidence regarding jurisdiction, the correct name of the Employer and the labor organization status of both intervening unions.

The hearing officer asked representatives from each of the Interveners about the composition of their units. Both representatives stated on the record that their labor organization admitted only guards into membership and were not affiliated with any labor organization that admits non-guards.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c) of the Act.

5. At the hearing, the parties stipulated that Intervenor United has represented the Employer's employees in certain locations in the New York Metropolitan area for the past 15 years, and that that recognition was embodied in successive collective-bargaining agreements, the most recent of which was effective by its terms for the three-year period through to July 24, 2010. That collective-bargaining agreement contained a provision setting forth the bargaining unit in Article 1, Section 1.2 of that agreement. The parties present at the hearing stipulated that the contractual unit is an appropriate unit for the purposes of bargaining. These parties also stipulated that while the collective-bargaining unit is silent regarding the inclusion of all sergeants employed by the Employer in those work sites set forth in Section 1.2 of Article 1, sergeants are included in the unit and the contract has been applied to all sergeants.

Inasmuch as the participating parties have stipulated to the contractual unit as an appropriate unit, and as the evidence adduced on the record establishes that the petitioned-for unit is the unit set forth in the collective-

bargaining agreement<sup>4</sup>, I find that the petitioned-for unit, as amended, constitutes an appropriate unit for collective bargaining.

In view of the foregoing, I find that the following constitutes a unit that is appropriate for the purposes of collective bargaining:

INCLUDED: All full- time and regular part-time security officers, including sergeants, employed by the Employer at Federal sites located on Ellis Island and Liberty Island and at Battery Park Coast Guard Station and Liberty State Park, performing guard duties as defined in Section 9(b)(3) of the National Labor Relations Act.

EXCLUDED: all other employees, including office clerical employees, managerial personnel, and supervisors (lieutenants and captains) as defined in the Act and all other personnel.

NOTE: The parties agreed that any personnel serving in the titles of acting lieutenant or acting captain are permitted to cast a challenged ballot.

### **DIRECTION OF ELECTION**

An election by secret ballot shall be conducted by Regional Director, Region 2, among the employees in the unit found appropriate at the time<sup>5</sup> and place set forth in the notice of election<sup>6</sup> to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the units who were

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<sup>4</sup> See *Campbell Soup Co.*, 111 NLRB 235 (1955) where the Board held that a decertification election generally must be held in a unit which is coextensive with the contractual unit.

<sup>5</sup> Pursuant to Section 101.21 (d) of the Board's Statements of Procedure, absent a waiver, an election will normally be scheduled for a date or dates between the 25<sup>th</sup> and 30<sup>th</sup> day after the date of this decision.

<sup>6</sup> The Board has adopted a rule requiring that election notices be posted by an employer "at least 3 full working days prior to 12:01 a.m. of the day of the election." Section 103.20(a) of the Board's Rules. In addition, the Board has held that Section 103.20 (c) of the Board's Rules requires that an employer notify the Regional Office at least five full working days prior to 12:01 a.m. of the day of the election, if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB No. 52 (1995).

employed during the payroll period ending immediately preceding the notice of intent to conduct election, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.<sup>7</sup> Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by the United Federation of

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<sup>7</sup> In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. *North Macon Health Care Facility*, 315 NLRB 359 (1994); *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman Gordon Company*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that within seven days of the date of this Decision, three copies of an election eligibility list, containing the full names and addresses of all eligible voters, shall be filed by the Employer with the Regional Director, Region 2, who shall make the list available to all parties to the election. In order to be timely filed, such list must be received in the Regional Office at the address below, on or before **June 23, 2010**. No extension of time to file this list may be granted, nor shall the filing of a request for review operate to stay the filing of such list, except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

Special Police and Officers, Inc., Local 639, Federal Contract Guards of America,  
or no labor organization.<sup>8</sup>

Dated at New York, New York,  
June 16, 2010

/s/ \_\_\_\_\_  
Celeste J. Mattina  
Regional Director, Region 2  
National Labor Relations Board  
26 Federal Plaza, Room 3614  
New York, New York 10278

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<sup>8</sup> Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th, NW, Washington, D.C. 20570-0001. This request must be received by the Board in Washington by no later than **June 30, 2010**.

